

HOUSE BILL 34 of the Second Extraordinary Session
By Buttry

AN ACT to amend Tennessee Code Annotated, Title 67, relative to the franchise and excise taxation of real estate investment trusts and related entities.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 67-4-2006(b)(1), is amended by deleting item (I) in its entirety, by substituting instead the following new items, and by relettering the remaining items accordingly:

(I) Any net loss or any item of expense or loss which meets all of the following criteria:

(i) Is included in the determination of the taxpayer's net earnings or loss;

(ii) Is from a pass-through entity which is subject to and files a return for the tax imposed by this part;

(iii) Is allocated to a partner, shareholder, beneficiary or other owner of such pass-through entity; and

(iv) Is not added to the net earnings or loss of such pass-through entity under item (J);

(J) Any net loss or item of expense or loss of a pass-through entity to the extent that such net loss or item of expense or loss is included in the federal taxable income or loss of a real estate investment trust which owns an interest in such pass-through entity

either directly or indirectly through one (1) or more such entities and which files a return for the tax imposed by this part;

SECTION 2. Tennessee Code Annotated, Section 67-4-2006(b)(2), is amended by deleting item (K) in its entirety and by substituting the following new items thereto:

(K) Any net gain or any item of income which meets all of the following criteria:

(i) Is included in the determination of the taxpayer's net earnings or loss;

(ii) Is from a pass-through entity which is subject to and files a return for the tax imposed by this part;

(iii) Is allocated to a partner, shareholder, beneficiary or other owner of such pass-through entity; and

(iv) Is not subtracted from the net earnings or loss of such pass-through entity under item (L);

(L) Any net gain or item of income of a pass-through entity to the extent that such net gain or item of income is included in the federal taxable income or loss of a real estate investment trust which owns an interest in such pass-through entity either directly or indirectly through one (1) or more such entities and which files a return for the tax imposed by this part;

SECTION 3. Tennessee Code Annotated, Section 67-4-2012, is amended by deleting the last sentence of subsections (b), (e) and (g), and by adding a new subsection (k), as follows:

(k) For purposes of this section, property, payroll and receipts shall include a taxpayer's share of any specific property, payroll and receipts of a pass-through entity in proportion to such taxpayer's share of the federal taxable income or loss of such pass-through entity; provided, that there shall be no inclusion of such factors if any items of income, gain, deduction, loss or expense of such pass-through entity are excluded from the computation of the taxpayer's net earnings or loss pursuant to Sections 67-4-2006(b)(1)(I) or 67-4-2006(b)(2)(K).

SECTION 4. This act shall take effect July 1, 2000, the public welfare requiring it.